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# PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number:

0124/0020

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 [37 CFR 1.8(a)]

Application No.

10/749,512

Filed

January 2, 2004

First Named Inventor

Mamoru Chiku et al.

Art Unit

2621

Examiner

Anyikire, Chikaodili E.

on \_\_\_\_\_

Signature \_\_\_\_\_

Type or printed name \_\_\_\_\_

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a Notice of Appeal

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.

☐ assignee of record of the entire interest.


See 37 CFR 1.71. Statement under 37 CFR 3.73(b) is enclosed.  
(Form PTO/SB/96)

☒ attorney or agent of record.

Registration No. 31,730

☐ attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34 \_\_\_\_\_

  
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September 3, 2009  
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NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below\*.

☐ \*Total of \_\_\_\_\_ forms are submitted.



## BRIEF IN SUPPORT OF PRE-APPEAL REVIEW REQUEST

The Examiner has rejected pending claims 1-4 and 6-10 as being unpatentable over Tauchi et al (US 2001/0036357) in view of Hirasawa (US 2001/0046231).<sup>1</sup>

### The Invention

The present invention is directed to an AV (Audio Visual) data outputting apparatus and/or imaging apparatus, that is meant to be able to output signals at its output interface that changes in accordance with the type of device attached to it. Conventionally, digital AV devices cannot communicate with each other via the output interface, for example, the IEEE 1394 interface, even though the same protocol may be used by the digital AV devices. Also, when the protocol or the formats of the data used by the different AV devices are different, the devices that are connected to receive output from such AV devices would tend not to operate correctly. The instant invention apparatus overcomes such short comings of conventional AV devices by selectively outputting the correct signal to the external device connected thereto.

With reference to Figs. 1 and 2, the apparatus of claim 1 is directed to an AV data outputting apparatus that comprises the following features:

1) a recording-mode-related section (110a) for selecting an AV data recording mode of operation from a DV-format mode and an MPEG-format mode,

2) an output data type designating means (110b) for designating the type of encoding, among the different types of procedures that correspond to the DV and MPEG encoding, of the AV data to be output by the outputting means (112d, 112e),

3) a first selecting means (SW2) for selecting one from the DV-format AV data and the MPEG-format AV data,

4) a fixed-pattern data generating means (112c) for generating AV data including either DV dummy data or MPEG dummy data,

5) a first controller (111) for controlling the first selecting means (SW2) to select either the DV-format AV data or the MPEG-format AV data based on the selection made by the recording-mode-related section (110a),

6) a second controller (111) for controlling the fixed-pattern data generating means (112c) to decide which of the DV dummy data and the MPEG dummy data the AV data generated by the fixed-pattern data generating means (112c) should include based on the encoding type selected by the output data type designating means (110b),

7) a deciding means (111) for deciding whether or not the encoding procedure related to the AV data selected by the first selecting means (SW2) corresponds to the encoding type designated by the output data type designating means (110b),

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<sup>1</sup> Given the space limitation in the Pre-Appeal Review Request Brief, discussion is focused to claim 1, as the other independent claims 7-10 each recite limitations that are similar to those recited in claim 1.

8) a second selecting means (SW3) for selecting one from the AV data selected by the first selecting means (SW2) and the AV data generated by the fixed-pattern data generating means (112c), and

9) a third controller (111) for controlling the second selecting means (SW3) to select the AV data generated by the fixed-pattern data generating means (112c) and including one of the DV dummy data and the MPEG dummy data which corresponds to the encoding type designated by the output data type designating means (110b) when the deciding means (111) decides that the encoding procedure related to the AV data selected by the first selecting means (SW2) does not correspond to the encoding type designated by the output data type designating means (110b).

#### Tauchi et al. (US2001/0036357)

Tauchi discloses a magnetic tape recording/reading apparatus that includes a video data compressor 1 that compresses an input HD video signal by the MPEG protocol, and an audio data compressor 2 that compresses an audio signal using the MPEG protocol. A switch 4 activable by the controller 13 outputs either the video data or the audio data, with predetermined timing, to an error detecting/correcting code an ID adder 5, which adds an error detecting or correcting code or an identification ID to the input data. The data is then sent to a converter 6, which converts the 24 bit input data into a 25 bit data by adding a redundant bit to the input data. A synchronization generator 7 generates the sync data and the preamble and postamble data that are added to the input data. A switch 8 then selects either the output of the converter 6 or the output of the synch generator 7, and outputs the selected output to a modulator 9 which modules the input data by a method so as to adapt it to the magnetic tape. The output from the modulator 9 is sent to a parallel/serial converter 10, which converts the parallel input data into a serial output signal, which is sent to an amplifier 11. From there the amplified data is sent to a rotary head 12 of the recording device for recording the data onto the magnetic tape 21. See Fig. 2 and paragraphs [0050]-[0054] of Tauchi. The Tauchi device therefore is a magnetic tape recording device that uses a rotary head to record digital data on a magnetic tape.

#### Hirasawa (US2001/0046231)

Hirasawa discloses a communication control apparatus 100 that controls the transmission of isochronous packets between different segments of a network, for example segment A (110) and segment B (120) as shown in Fig. 1. The controller of Hirasawa specifically allows a user to decide whether to prohibit the transmitting of an isochronous packet from one of the nodes in one of the segments to another node in the other of the segments, so that the isochronous packet is not broadcast to all of the nodes in the network [0039]. The Hirasawa controller therefore prevents the relaying of an isochronous packet received at one of its ports to its other port when a predetermined condition is satisfied by the setting of a prohibition mode.

### DISCUSSION

#### Feature 1: Recording-mode-related section (110a)

Referencing element 21 in Fig. 12, and paragraphs [0102] and [0104] in Tauchi, the Examiner asserts that Tauchi discloses the recording-mode-related section (110a). Yet as clearly taught in Tauchi, element 21 is a magnetic tape on which data is recorded. The recording-mode-related section (110a) in claim 1, in contrast, is for selecting an AV data recording mode of operation from a DV-format mode and an MPEG-format mode. It is nothing remotely similar to a general magnetic tape, which is simply a recording medium that does not have a selecting function. It is submitted that the Examiner has mistakenly focused solely on the word "recording" of the term "recording-mode-related section" without paying heed to the function performed thereby. Simply put, the "recording-mode-related section (110a)" is not a recording medium such as the magnetic tape 21 in Tauchi. Furthermore, Tauchi does not teach that an AV data recording mode of operation is selected from a DV-format mode and an MPEG-format mode. Accordingly, Tauchi does not disclose the recording-mode-related section (110a) in claim 1.

Feature 5: Regarding first controller (111)

Referencing element 13 of Fig. 12 and paragraph [0102] in Tauchi, the Examiner asserts that Tauchi discloses the first controller (111) in claim 1. But paragraph [0102] of Tauchi discloses a controller 13 that controls a switch 63 to select either an output from the MPEG recording-signal processor 61 or an output from the DV recording-signal processor 62. In contrast, the first controller (111) in claim 1 is for controlling the first selecting means (SW2) to select either the DV-format AV data or the MPEG-format AV data based on the selecting by the recording-mode-related section (110a). Tauchi does not teach that the control of the switch 63 by the controller 13 is based on a selecting action equivalent to the selecting by the recording-mode-related section (110a) in claim 1. Thus, the first controller (111) in claim 1 is not the same as the controller 13 in Tauchi.

Feature 7: Deciding means (111)

Referencing element 81 in Fig. 13 and paragraphs [0109] and [0110] in Tauchi, the Examiner asserts that Tauchi discloses the deciding means (111) in claim 1. Fig. 13 and paragraphs [0109] and [0110] of Tauchi disclose an ID detector 81 that responds to the output from the demodulator 43, in order to recognize that the data which is being read is either HD video signal data or SD video signal data. When HD video signal data is being read, the ID detector 81 controls the switch 82 to allow a 25-24 converter 45 to supply its output to an MPEG-recoding-signal processor 83. When SD video signal data is being read, the ID detector 81 controls the switch 82 to allow the 25-24 converter 45 to supply its output to a consumer-DV-read-signal processor 84. Accordingly, the ID detector 81 decides whether data which is being read is HD video signal data or SD video signal data. On the other hand, the deciding means (111) in claim 1 decides whether or not the encoding procedure related to the AV data selected by the first selecting means (SW2) corresponds to the encoding type designated by the output data type designating means (110b). Thus, the deciding means (111) in claim 1 is quite different from the ID detector 81 in Tauchi.

Feature 4: Fixed-pattern data generating means (112c)

Referencing element 203 in Fig. 2 and lines 13-17 in paragraph [0033] of Hirasawa, the Examiner asserts that Hirasawa teaches the fixed-pattern data generating means (112c) in claim 1. Paragraph [0033] in Hirasawa discloses a dummy packet generating part 203 that generates an isochronous packet including dummy data. In contrast, the fixed-pattern data generating means (112c) in claim 1 generates AV data including either DV dummy data or MPEG dummy data. Thus, the dummy data in the generated AV data recited in claim 1 is in either DV format or MPEG format. Hirasawa fails to disclose the dummy data in his generated isochronous packet is of the DV format or the MPEG format. As to the Examiner's assertion that Hirasawa "creates an obvious modification to the invention Tauchi [by] applying a generated fixed pattern to the selected MPEG or DV format from Tauchi" (page 2, last paragraph of June 11, 2009 Office Action), it is submitted that such "obvious modification" runs counter to the teachings of Hirasawa which clearly discloses that his dummy packet generating part generates "an isochronous packet (hereinafter, referred to as "dummy packet") that includes dummy data (instead of dummy data, it may be empty data or null data)." In other words, Hirasawa requires that his dummy packet generating part 203 to generate a dummy packet or null data, not a packet that may be in different formats. Therefore, the combination of Hirasawa and Tauchi fails to disclose the fixed-pattern data generating means (112c) in claim 1, for the fixed-pattern data generating means (112c) in claim 1 is not an equivalent of the dummy packet generating part 203 in Hirasawa.

#### Feature 6: Second controller (111)

Relying on element 205 in Fig. 2 and lines 20-21 of paragraph [0033] in Hirasawa, the Examiner asserts that Hirasawa teaches the second controller (111) in claim 1. Paragraph [0033] of Hirasawa discloses a control part 205 that controls a selection part 204 to select and output either the isochronous packet or the dummy packet. In Fig. 5 and its related description, Hirasawa discloses that the control part 205a operates to implement the permission or the prohibition of the relaying of the isochronous packet from the segment A to the segment B in accordance with the list in the memory 206. At the step S508 of Fig. 5, the control part 205 prohibits the relaying of the isochronous packet, and controls the selection part 204 to supply the dummy packet. Step S508 is executed if the step S504 detects a command to prohibit the relaying or if step S507 detects, from the list of Fig. 6(B), a command to prohibit the relaying. In contrast, the second controller (111) in claim 1 controls the fixed-pattern data generating means (112c) to decide which of the DV dummy data and MPEG dummy data should be included in the AV data generated by the fixed-pattern data generating means (112c) based on the encoding type selected by the output data type designating means (110b). The control part 205 in Hirasawa does not do that. Furthermore, the control part 205 in Hirasawa does not respond to the encoding type selected by the output data type designating means. Thus, the second controller (111) recited in claim 1 is different from the control part 205 in Hirasawa.

#### Feature 9: Third controller (111)

Referencing element 205 in Fig. 2 and paragraphs [0033] and [0036] in Hirasawa, the Examiner asserts that Hirasawa teaches the third controller (111) in claim 1. As discussed above, the control part 205 in Hirasawa controls the selection part 204 to select

and output either the isochronous packet or the dummy packet. The control part 205a operates to implement the permission or the prohibition of the relaying of the isochronous packet from the segment A to the segment B in accordance with the list in the memory 206. The third controller (111) in claim 1, on the other hand, controls the second selecting means (SW3) to select the AV data generated by the fixed-pattern data generating means (112c) and includes one of the DV dummy data and the MPEG dummy data which corresponds to the encoding type designated by the output data type designating means (110b) when the deciding means (111) decides that the encoding procedure related to the AV data selected by the first selecting means (SW2) does not correspond to the encoding type designated by the output data type designating means (110b). Thus, the operation of the third controller (111) responds to the result of the decision by the deciding means (111) as to whether or not the encoding procedure related to the AV data selected by the first selecting means (SW2) corresponds to the encoding type designated by the output data type designating means (110b). The control part 205 in Hirasawa does not respond to such decision result. Accordingly, the third controller (111) in claim 1 is different from the control part 205 in Hirasawa.

In light of the above discussion, it is submitted that the prior-art rejection to claim 1 based on the combination of Tauchi and Hirasawa is without merit and not sustainable.

As claims 2, 3, 4, and 6 each depend, either directly or indirectly, from claim 1, those claims likewise are submitted to be patentable over the cited prior art.

Independent claims 7, 8 and 9 each have claimed subject matter and/or limitations that are similar to those of claim 1. The discussion above is therefore believed to be equally applicable to those limitations. Accordingly, those claims, and claim 10 which depends from claim 9, are also submitted to be patentable over the cited prior art.